

Local 3, International Brotherhood of Electrical Workers, AFL-CIO and General Dynamics Communications Company. Case 2-CC-1734

September 30, 1982

DECISION AND ORDER

BY CHAIRMAN VAN DE WATER AND
MEMBERS FANNING AND HUNTER

On March 5, 1982, Administrative Law Judge D. Barry Morris issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel and the Charging Party filed answering briefs.¹

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended Order, as modified herein.

1. The Administrative Law Judge, in concluding that Respondent violated Section 8(b)(4)(i) and (ii)(B) of the Act, found that Respondent was responsible for the June 30–July 2, 1981, work stoppage by its member-electricians who were employed by Henry Paul, Inc., at the Fox, Glynn & Melamed law firm's offices on the sixth and seventh floors of the One Broadway building rehabilitation project. In support of this finding, the Administrative Law Judge noted that Respondent maintained a "total job" policy whereby it claimed all work coming within its jurisdiction, that this policy was embodied in a section of its bylaws which states that "No member is to give away work coming under the jurisdiction of this Local, or to allow any other tradesman to do work coming under this Local's jurisdiction"; that Elec-

trician Foreman DiTusa, a member of Respondent, testified that he and the other electricians walked off the job because General Dynamics Communications Corporation's (GDCC) employees, who were represented by the Communications Workers of America (CWA), were performing telephone interconnect work claimed by Respondent; that on June 30, 1981, GDCC's counsel notified Respondent's counsel² of the work stoppage; that Respondent's counsel stated that he would call Respondent about the matter; and that Respondent failed to discipline any of the electricians who participated in the walkout despite the fact that the IBEW constitution prohibits unauthorized work stoppages and provides that members may be penalized for engaging in such actions. The Administrative Law Judge also found that, during the spring and summer of 1981, electricians represented by Respondent, including foremen who were also members of the IBEW and a steward, claimed telephone interconnect work being performed by GDCC employees at a similar building rehabilitation project at Two Broadway, that the GDCC employees there were told not to continue working, and were threatened on one occasion with physical violence if they did not stop performing such work, and that the GDCC work area lights, which were under the control of the electricians, frequently were inoperative. In addition, the record reveals that in April 1981 a Standard Telephone, Inc., electrician foreman, represented by Respondent, who was in charge of service work on a GDCC telephone system at Metro Media, Inc., threatened GDCC officials that the maintenance electricians for the entire building which housed the Metro Media offices, who also were represented by Respondent, might walk out if GDCC took over its own service work on the Metro Media system.

We have found in previous cases involving Respondent that its "total job" policy, as embodied in the bylaw section noted above, constitutes inducement or encouragement of walkout or other refusals to perform services in violation of Section 8(b)(4)(B)³ and that Respondent was responsible for the conduct of its members acting pursuant thereto.⁴ We also have held that evidence of a pat-

¹ On August 5, 1982, United Technologies Communications Company (UTCC) filed with the Board a motion for substitution of name of the Charging Party. It alleged that the business operations of the Charging Party, General Dynamics Communications Company (GDCC), were sold as part of an asset sale on July 23, 1982, to United Technologies Corporation and JTCC, a newly created subsidiary, is now operating the same business with the same personnel, the same collective-bargaining agreements, at the same locations, as previously operated by GDCC. UTCC requested, therefore, that the instant Decision and Order reflect this change.

Thereafter, on August 24, 1982, the Board issued a Notice To Show Cause why this motion should not be granted. GDCC/UTCC and Respondent filed timely responses to this notice.

The Board hereby denies UTCC's motion as lacking in merit. We note that Respondent's unlawful secondary actions were directed solely at GDCC and that, in any event, our Order herein requires that Respondent cease and desist from engaging in unlawful secondary activity against "any other employer or person." See also *Local 3, International Brotherhood of Electrical Workers, AFL-CIO (General Dynamics Communications Company)*, 264 NLRB 364 (1982), issued this day.

² We note that Respondent's counsel represented Respondent with respect to the 8(b)(4)(B) and (D) charges filed by GDCC as a result of Respondent's actions at Two Broadway, discussed *infra*, and that when GDCC's counsel again called Respondent's counsel on July 1, 1981, the latter stated, "We've got hundreds . . . of stewards. Unless you can give us the names, there's nothing I can do for you." (Emphasis supplied.)

³ *Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO (Eastern States Electrical Contractors, Inc.)*, 205 NLRB 270 (1973), and *Local 3, International Brotherhood of Electrical Workers, AFL-CIO (New York Telephone Company)*, 140 NLRB 729 (1963).

⁴ See *Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO (L. M. Ericsson Telecommunications, Inc., New York Division)*, 264 NLRB 364 (1982).

Continued

tern of unlawful secondary harassment of a primary employer, as has been demonstrated here in Respondent's actions against GDCC at Metro Media and Two Broadway, constitutes evidence of Respondent's inducement or encouragement of subsequent secondary activity against that employer.⁵ In addition, Respondent's history before this Agency demonstrates its proclivity to engage in unlawful secondary activity supportive of its claim to telephone interconnect work being performed by employees represented by CWA.⁶ Accordingly, and in light of all of the above-noted circumstances, we agree with the Administrative Law Judge's conclusion that Respondent was responsible for the walkout at the Fox, Glynn & Melamed project and that Respondent thereby violated the Act, as alleged.

2. The Administrative Law Judge's Conclusions of Law are hereby amended to conform more closely to the violation herein by deleting Conclusion of Law 3 and substituting therefor the following:

"3. By inducing and encouraging individuals employed by Henry Paul, Inc., to engage in a strike or refusal, in the course of their employment to perform services, and by restraining and coercing Henry Paul, Inc., Morse Diesel, Inc., Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., with an object of forcing Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., to cease doing business with each other, Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(4)(i) and (ii)(B) of the Act."

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge, as modified below,⁷ and hereby orders that the Respond-

sion), 257 NLRB 1358 (1981), and *Local Union No. 3, I.B.E.W. (Western Electric Company)*, 141 NLRB 888 (1963).

⁵ *Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO (Forest Electric Corp.)*, 205 NLRB 1102 (1973).

⁶ See, e.g., *Local Union No. 3, I.B.E.W. (L. M. Ericsson)*, *supra*; *Local Union No. 3, IBEW (Eastern States Electrical Contractors, Inc.)*, *supra*; and *Local Union No. 3, International Brotherhood of Electrical Workers, AFL-CIO (New York Telephone Company)*, 193 NLRB 758 (1971).

⁷ In view of the Administrative Law Judge's provision for a broad order against Respondent, the posting of notices, the publication of the notice in Respondent's newsletter "Electrical Union World," and the mailing of the newsletter in which the notice is published to all Local 3 members at their home addresses, Member Fanning finds it unwarranted, based on the circumstances of this case, to also require the publication of the notice in a newspaper of general circulation in the New York metropolitan area, and would delete provision for such publication from the Order.

ent, Local 3, International Brotherhood of Electrical Workers, AFL-CIO, Queens, New York, its officers, agents, and representatives, shall take the action set forth in the said recommended Order, as so modified:

1. Substitute the following for paragraph 1(a):

"(a) Inducing or encouraging individuals employed by Henry Paul, Inc., or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike or refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, materials, or commodities, or to perform any services, where an object thereof is to force or require Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., or any other employer or person, to cease doing business with each other or with any other employer or person."

2. Substitute the following for paragraph 1(b):

"(b) Threatening, coercing, or restraining Henry Paul, Inc., Morse Diesel, Inc., Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., or any other person engaged in commerce or in an industry affecting commerce, where an object is to force or require Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., or any other employer or person, to cease doing business with each other, or with any other employer or person."

3. Substitute the attached notice for that of the Administrative Law Judge.

APPENDIX

NOTICE

POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

TO ALL MEMBERS OF LOCAL 3, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO, AND EMPLOYEES OF HENRY PAUL, INC., GENERAL DYNAMICS COMMUNICATIONS COMPANY, AND TRIBORO TELEPHONE PLANNING AND INTERCONNECT, INC.

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT induce or encourage individuals employed by Henry Paul, Inc., or by any

other person engaged in commerce, or in an industry affecting commerce, to engage in a strike, or a refusal in the course of their employment to perform any services, where an object thereof is to force or require Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., or any other employer or person, to cease doing business with each other or with any other employer or person.

WE WILL NOT threaten, coerce, or restrain Henry Paul, Inc., Morse Diesel, Inc., Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., or any other person engaged in commerce, or in an industry affecting commerce, where an object thereof is to force or require Fox, Glynn & Melamed, General Dynamics Communications Company, and Triboro Telephone Planning and Interconnect, Inc., or any other employer or person, to cease doing business with each other or with any other employer or person.

LOCAL 3, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

DECISION

STATEMENT OF THE CASE

D. BARRY MORRIS, Administrative Law Judge: This case was heard before me in New York City on November 24, 25, 27, and 30 and December 1 and 2, 1981.¹ A charge was filed on September 22, and a complaint was filed on November 6, alleging that Local 3, International Brotherhood of Electrical Workers, AFL-CIO (Local 3 or Respondent), violated Section 8(b)(4)(i) and (ii)(B) of the National Labor Relations Act, as amended (the Act). Respondent denied the commission of the alleged unfair labor practices.

The parties were given full opportunity to participate, to produce evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Briefs were filed by the General Counsel, the Charging Party, and Respondent.

Upon the entire record in the case, including my observation of the witnesses, I make the following:

FINDINGS OF FACT

I. THE BUSINESS OF GENERAL DYNAMICS COMMUNICATIONS COMPANY

General Dynamics Communications Company (GDCC), a subsidiary of General Dynamics Corporation, is a California corporation with a place of business in

New York City. It is engaged in the sale and service of interconnect telephone equipment. During the 12 months preceding the issuance of the complaint it purchased supplies valued in excess of \$50,000 from sources outside the State of New York. Based upon undisputed evidence in the record, I find that GDCC is engaged in commerce within the meaning of Section 2(6) and (7) and Section 8(b)(4) of the Act.²

II. THE LABOR ORGANIZATION INVOLVED

Respondent is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. *The Facts*

1. Allegations

The complaint alleges that Respondent engaged in a work stoppage at a building located at One Broadway in New York City because of the failure of a subcontractor of GDCC to employ Local 3 employees in connection with certain telephone-related work. Respondent denied the allegations.

2. One Broadway

On March 20 GDCC entered into a contract with the law firm of Fox, Glynn and Melamed (Fox Glynn) for the installation of a telephone system at Fox Glynn's offices located on the sixth and seventh floors of One Broadway. In June GDCC subcontracted with Triboro Telephone Planning and Interconnect, Inc. (Triboro), to install the telephone system. The building was undergoing a complete renovation at the time, with Morse Diesel, Inc. (Morse Diesel), the general contractor in charge of the renovation. Morse Diesel subcontracted the electrical work to be done at the location to Henry Paul, Inc. (Henry Paul), an electrical contractor. The employees of Triboro belong to Local 1109, Communications Workers of America (CWA). The employees of Henry Paul belong to Local 3.

On Friday, June 26, Triboro employees delivered telephone cable to the jobsite. The following morning two or three Triboro employees started cabling certain areas on the seventh floor. Work continued on Monday and Tuesday, June 29 and 30. On Tuesday afternoon, Alan Johnson, a representative of Fox Glynn, called Peter Sarni, the GDCC operations supervisor in charge of the One Broadway project, and requested that the Triboro employees not report to work on Wednesday, July 1. On the following day, July 2, the general contractor sent the following telegram to the landlord's representative at One Broadway:

We wish to inform you that your tenant Fox, Glynn and Melamed has employed a non-Local 3 approved telephone installer from General Dynam-

² For purposes of asserting jurisdiction, it is sufficient if the operations of the primary employer alone meet the Board's jurisdictional requirements. *Truck Drivers Local Union No. 649 (Jamestown Builders Exchange, Inc.)*, 93 NLRB 386, 387 (1951).

¹ All dates refer to 1981 unless otherwise specified.

ics to perform work on the seventh floor, thus causing a work stoppage on the seventh floor which has now cost us a three day delay in completing our work. Please advise your tenant relative to the above.

James DiTusa, the Henry Paul foreman at One Broadway, testified that approximately seven or eight men, all members of Local 3, were working with him on the sixth and seventh floors of One Broadway. He credibly testified as follows:

Q. Did there come a time when you stopped working on the sixth and seventh floor at the end of June in 1981?

A. Yes.

Q. And why was that, sir?

A. There was a non-union outfit there that was doing our work, and I—myself, I said I got work in the other part of the building that I can work in that I don't have to work alongside of him. When he leaves, I'll come back up and do my work.

Q. Did you tell this to the men who were working with you?

A. No, I just said it myself.

Q. I know, but did you tell the men that you were not working on the floor?

A. I mentioned it, yes.

Q. And did they work on the floor?

A. No. . . .

Q. And how long did you stay off work?

A. Three days.

Q. And after those three days you came back to work?

A. Yes.

Q. And why did you decide to go back to work?

A. Well, they had finished pulling their wire and I went back up there and I completed my job.

Q. When you say, they, who are you talking about?

A. The General Dynamics.

Q. The General Dynamics people?

A. Yes.

Q. And are you aware of what union they're represented by, what they're members of?

A. No, I believe they belong to the Communications Workers, or something like that. I saw the card, but I didn't take the name.

Q. Now, you say that's your work, can you be more precise, what is your work?

A. Well, any installation of electrical work that has light and power and wire pulling and all that is all been designated as our work.

Fred Wise, a Triboro telephone installer, testified that he was working at the jobsite on June 27. He credibly testified that he was approached by DiTusa, who asked to see his union card. Wise showed DiTusa his union card which showed he was a member of CWA. DiTusa told Wise, "You're not Local 3, you can't work here."

Peter Butawice, Morse Diesel's superintendent at the jobsite, corroborated DiTusa's testimony. He credibly testified that for several days during the latter part of

June and the early part of July there were no electricians on the seventh floor. He testified that he told Michael Johnston, a Fox Glynn representative, that the "electricians were off the job" and that the carpenters complained that "I ain't got no power for my hand gun. I can't see this and this." He testified that during the period June 30 to July 2 the lights kept going on and off.

David Perez, General Dynamics counsel, credibly testified that on the afternoon of June 30 he telephoned Local 3's counsel to notify him of the work stoppage at One Broadway and that "they turned the . . . lights out." Local 3's counsel advised Perez that he would call the Union.

Michael Johnston testified that on June 27 DiTusa told him "there was a problem that the cable was being pulled by unauthorized labor." Alan Johnson testified that on June 30 he received a report from Butawice that the "electricians were going to walk off if the General Dynamics employees continued on the job." He further testified that Fox Glynn canceled its contract with GDCC "because the telephone system was not getting installed and in our view General Dynamics had breached the provision of the contract that required it to use compatible labor." The record indicates that another company using Local 3 employees ultimately installed the telephone system for the Fox Glynn firm.

Based upon the above testimony,³ I find that on June 27 DiTusa told Wise that he could not work at the jobsite because he was not a member of Local 3. On June 30 DiTusa and seven or eight Local 3 electricians stopped working at the jobsite because Triboro employees were working there. On the same day Local 3's counsel was notified of the work stoppage. The work stoppage lasted for 3 days, through July 2. Fox Glynn eventually canceled its contract with GDCC and the work was ultimately done by a company employing Local 3 members.

3. Two Broadway

On November 7, 1980, GDCC entered into an agreement with Merrill, Lynch, Pierce, Fenner and Smith (Merrill Lynch) for the installation of a telephone system on the 22d and 23d floors of a building located at Two Broadway, New York City. New York Maintenance Corp. was Merrill Lynch's electrical subcontractor doing the renovation and electrical work at Two Broadway. The employees of New York Maintenance were represented by Local 3 and the employees of GDCC were represented by CWA.

Sabatino Malandro was the New York Maintenance foreman in charge of the electrical work at Two Broadway. Peter Russo, an employee of GDCC and the project manager at Two Broadway, credibly testified that on March 6, 1981, Malandro told him that "we weren't going to be able to do that work on that switching equipment" because "it's Local 3's work." Russo further credibly testified that on March 9 "Malandro told me again that it was Local 3 hands on and GDC hands

³ I credit the testimony of DiTusa, Wise, Butawice, Perez, Michael Johnston, and Alan Johnson, all of which was unrefuted.

off and that we could supervise their people, but they were going to do the work The conversation ended at that point and no further work was done on the switch that day." On March 11 Russo and a fellow employee, John Egan, appeared at the jobsite to perform some work on the switching equipment. Russo credibly testified that Egan started to run some cables and was immediately stopped by Louis Squillante, an employee of New York Maintenance and an assistant foreman on the project. After Squillante told Egan, "you're not supposed to be working on that equipment," Russo instructed Egan to stop doing the work "until we could get the problem straightened out."

Egan credibly testified that on March 6 Malandro told him that he could not mark certain frames but instead it was the electricians who were supposed to do the marking. Egan further credibly testified that later in the day, while he was working, Dennis Regucci, the Local 3 shop steward, approached him and said:

You're not doing that work; that's not your job. You are not to be connecting any cables here. This is a job where electricians do the work; General Dynamics gives directions. General Dynamics does no connecting of the cables at all.

Egan further testified that on March 11 he came to the jobsite and began connecting cables into the switchboard. Soon thereafter Regucci approached him and told him, "Hey, you guys aren't doing this work." That afternoon, Malandro asked Egan, "Hey, did you see those guys that were down here before?" Egan replied, "No, what do you mean?" Malandro answered, "The union sent some guys down here in case of trouble."

Richard Knapp, a GDCC employee and a shop steward for Local 1109, CWA, testified that on March 11 he came to the jobsite to see if something could be straightened out with respect to the problems that GDCC employees were having with the Local 3 employees. Knapp proceeded to have a conversation with Malandro and Regucci in which Knapp said, "There's no reason why General Dynamics cannot do this work. We are a union company and hold union cards." Regucci replied, "We don't recognize your local." Knapp credibly testified that Regucci then said, "I have 80 men upstairs that I have no control over. If they came downstairs, I could not hold them back."

In May 1981 Merrill Lynch contracted with GDCC to do telephone work in the basement of Two Broadway. Concerning this work, Egan credibly testified that he had a conversation with Malandro on May 22, at which time Malandro said that "if General Dynamics did install the phones in the basement area, that the electricians would not do any electrical work down there and that Merrill Lynch would be out of luck when it came to electricity there."

Perez, in testimony corroborated by Egan, stated that on June 2 approximately 15 electricians formed a semicircle around three GDCC employees working in the basement. Perez credibly testified:

[A]s soon as these men encircled ours, all devil broke loose. Yelling and screaming from

people identified as Local 3 employees, started yelling at our three people, "get your hands off that . . . stuff. That's our work. Don't touch it. You're stealing our work." Squillante told me, "Hey, you guys can't do that work. That's our work." I asked him, "Whose work?" He said, "Local 3's." I then went on, "Is there a shop steward here?" He identified Charles Albanese and pointed him out to me. Albanese was in the room this whole time.

Anthony Orlando, a Merrill Lynch employee and project manager at Two Broadway, testified that on June 2 Malandro called him and told him that GDCC personnel were observed pulling cable in the basement of Two Broadway. Malandro advised Orlando that the Local 3 men "stopped working." Similarly, Egan testified that on June 3 Squillante told him that the Local 3 men had walked off the day before "because of what we had done."

Orlando testified that several times the lights were out in the area in which the GDCC people were working. He further testified that New York Maintenance was in charge of the lights. Similarly, Egan testified that during the month of August the lights were frequently out in the areas in which GDCC employees were working.

Michael Woodford, a Merrill Lynch employee, testified that until October "the work had been progressing very slowly." The immediate problem seemed to be the jurisdiction over the "cable pulls." An arrangement was reached whereby GDCC turned the work back to Merrill Lynch. Merrill Lynch, in turn, assigned the work to New York Maintenance. Woodford testified that the "jurisdictional dispute" was a factor in the decision to transfer the work.

Based upon the above testimony⁴ I find that on several occasions the New York Maintenance foreman and the Local 3 steward told GDCC employees that pulling cable was Local 3 work and that GDCC employees were not to do it. In addition, on one occasion the GDCC employees were threatened with physical violence. I further find that New York Maintenance was in charge of the lights and that during the month of August lights were frequently out in the areas where GDCC employees were working. Finally, I find that Merrill Lynch took the work away from GDCC and assigned it to New York Maintenance, partly because of the jurisdictional dispute.

B. Discussion and Analysis

This case involves a long and continuing dispute between Local 3 and CWA regarding the performance of telephone work in the New York metropolitan area. Local 3 maintains a "total job" policy under which it is expected that all the work coming within Local 3's jurisdiction be performed by its members. *Local Union No. 3, IBEW (L. M. Ericsson)*, 257 NLRB 1358 (1981). The total job policy is embodied in Local 3's bylaws, which state (art. XIII, sec. 12):

⁴ I credit the testimony of Russo, Egan, Knapp, Perez, Orlando, and Woodford, all of which was unrefuted.

No member is to give away work coming under the jurisdiction of this Local, or to allow any other tradesmen to do work coming under this Local's jurisdiction.

The complaint alleges that Local 3 engaged in a secondary boycott at One Broadway. I have found that for a period of 3 days, from June 30 through July 2, the Local 3 electricians working on the sixth and seventh floors of One Broadway engaged in a work stoppage. Local 3's counsel was informed of the work stoppage on June 30. The Local 3 electricians engaged in this action because they refused to work along with the CWA employees, who were involved in pulling cable. As DiTusa testified, cable pulling has been "designated as our work."⁵

Respondent contends that the action of DiTusa should not be attributable to Local 3. However, in the circumstances of this case, I believe that DiTusa was acting on behalf of Local 3. He was the foreman on the job and was enforcing the Union's total job policy. Thus, in *Local 1016, United Brotherhood of Carpenters (Booher Lumber Co.)*, 117 NLRB 1739, 1744 (1957), enfd. 273 F.2d 686 (2d Cir. 1960), a foreman's actions in carrying out union rules was held to bind the union. Similarly, in *International Association of Heat and Frost Insulators and Asbestos Workers Local No. 53 (McCarty and Armstrong)*, 185 NLRB 642, 650 (1970), a foreman's statements were binding on the union, where the foreman was carrying out union policy. See also *Local Union No. 3, IBEW (Western Electric Company)*, 141 NLRB 888, 893 (1963), enfd. 339 F.2d 145 (2d Cir. 1964).

Although the IBEW constitution provides that a member may be penalized for engaging in an unauthorized work stoppage, the parties stipulated that Local 3 took no action to discipline any of its members in connection with the work at One Broadway. Under such circumstances, the Board has held that a union's failure to discipline its members is further reason for holding a union responsible for its members' actions. See *Local Union No. 3, IBEW (Eastern States Electrical Contractors)*, 205 NLRB 270, 273 (1973); *L. M. Ericsson, supra*, 257 NLRB 1358.

Accordingly, I conclude that DiTusa, operating as an agent of Local 3, instigated a work stoppage of Henry Paul's employees. Local 3's dispute at all times was with Local 1109, CWA, whose members were employed by GDCC and Triboro. The Local 3 action constitutes a violation of Section 8(b)(4)(i) and (ii)(D) of the Act.

⁵ As the court stated in *N.L.R.B. v. Local Union No. 3, IBEW (New York Telephone Co.)*, 467 F.2d 1158, 1160 (2d Cir. 1972):

The electrical workers union, after sixty years of doing such work for Telco, considered cable pulling [within] its jurisdiction, and has in other cases attempted to protect its work by actions similar to those here at issue. See *N.L.R.B. v. Local 25, International Brotherhood of Electrical Workers*, 396 F.2d 591 (2d Cir. 1968); *N.L.R.B. v. Local Union No. 3, International Brotherhood of Electrical Workers*, 339 F.2d 145 (2d Cir. 1964).

Similarly, Regucci, the Local 3 steward at Two Broadway, told a GDCC employee:

You are not to be connecting any cables here. This is a job where electricians do the work; General Dynamics gives directions. General Dynamics does no connecting of the cables at all.

CONCLUSIONS OF LAW

1. General Dynamics Communications Company is an employer engaged in commerce within the meaning of Section 2(6) and (7) and Section 8(b)(4) of the Act.

2. Respondent is a labor organization within the meaning of Section 2(5) of the Act.

3. By inducing and encouraging its members employed by Henry Paul, Inc., to engage in a strike or refusal in the course of their employment, to perform services, and by restraining and coercing Henry Paul, Inc., with an object of forcing or requiring Henry Paul, Inc., General Dynamics Communications Company, Triboro Telephone Planning and Interconnect, Inc., Morse Diesel, Inc., and Fox, Glynn and Melamed to cease doing business with each other, Respondent has engaged in unfair labor practices within the meaning of Section 8(b)(4)(i) and (ii)(B) of the Act.

4. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(b)(4)(i) and (ii)(B) of the Act, I shall recommend that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

The General Counsel and the Charging Party urge that Respondent's conduct herein, taken together with its past history, requires the issuance of a broad order prohibiting not only unlawful secondary activity directed to the secondary employers in this case with regard to disputes with the primary employers in this case, but also such activity directed to all secondaries with respect to all primaries. I agree that such a broad order is necessary to effectuate the policy of the Act. Such broad orders are required where a respondent's conduct, both in the record and in the past history of litigated cases, warrants a finding that the respondent has shown a proclivity or a general scheme to violate the Act. See *General Service Employees Union Local No. 73 (Andy Frain, Inc.)*, 239 NLRB 295, 310 (1978).

Citing prior cases in which Respondent violated Section 8(b)(4) of the Act, the Board issued a broad order in *Local Union No. 3, IBEW (New York Telephone)*, 197 NLRB 328, 332-333 (1972), enfd. 477 F.2d 260 (2d Cir. 1973). Since that time Respondent has continued to violate the same section of the Act. See *Local 3, IBEW (Hylan Electric Co.)*, 204 NLRB 193 (1973); *Local 3, IBEW (Mansfield Contracting Corporation)*, 205 NLRB 559 (1973); *Local Union No. 3, IBEW (Eastern States, Electrical Contractors)*, 205 NLRB 270 (1973); *Local 3, IBEW (Wickham Contracting Co.)*, 220 NLRB 785 (1975), enfd. 542 F.2d 860 (2d Cir. 1976); *Local 3, IBEW (New York Electrical Contractors Association)*, 244 NLRB 357 (1979). In addition, the evidence adduced with respect to Two Broadway shows another instance in which Respondent has continued to adhere to its total job policy. In these circumstances, it is reasonable to anticipate future violations and it is necessary to prohibit such unlawful conduct directed against all persons in

connection with disputes with any and all primary employers or persons.

I also find it necessary to ensure that notice of Respondent's conduct and the Board's remedy reach all interested and potentially affected persons. Traditional notice posting at places where employees of the parties involved herein or members of Respondent congregate is insufficient to notify all potential primaries and secondaries or members. I therefore will recommend that Respondent publish the notice at its own expense in a newspaper of general circulation in the New York metropolitan area. See *General Service Employees Union (Andy Frain Inc.)*, *supra*, 239 NLRB at 310-311. In addition, I will recommend that the notice be published in Respondent's publication, "Electrical Union World," with copies mailed to all Local 3 members at their home addresses. See *Local 3, IBEW (Eastern States)*, *supra*, 205 NLRB 270; *L. M. Ericsson*, *supra*, 257 NLRB 1358.

Upon the foregoing findings of fact and conclusions of law, and upon the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER⁶

The Respondent, Local 3, International Brotherhood of Electrical Workers, AFL-CIO, Queens, New York, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Inducing or encouraging individuals employed by Henry Paul, Inc., or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike or refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, materials, or commodities, or to perform any services, where an object thereof is to force or require Henry Paul, Inc., or any other employer or person to cease doing business with General Dynamics Communications Company, Triboro Telephone Planning and Interconnect, Inc., or with any other employer or person.

⁶ In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

(b) Threatening, coercing, or restraining Henry Paul, Inc., or any other person engaged in commerce or in an industry affecting commerce, where an object thereof is to force or require Henry Paul, Inc., or any other employer or person to cease doing business with General Dynamics Communications Company, Triboro Telephone Planning and Interconnect, Inc., or with any other employer or person.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Publish the complete text of the attached notice marked "Appendix" in a conspicuous place in its semi-monthly publication, "Electrical Union World" or successor publication, however named, and mail a copy of said publication to each member of Local 3 and post copies of said notice in conspicuous places in its business offices, meeting halls, and all places where notices to members are customarily posted.⁷ Copies of said notice, on forms provided by the Regional Director for Region 2, after being signed by Local 3's representatives, shall be posted by it immediately upon receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily displayed. Reasonable steps shall be taken by Local 3 to ensure that said notices are not altered, defaced, or covered by any other material.

(b) Deliver to the Regional Director for Region 2 signed copies of said notice, for posting by Henry Paul, Inc., if willing, at places where notices to its employees or Local 3 members are customarily posted.

(c) Publish at its expense the terms of the notice, in a form and size approved by the Regional Director for Region 2, in a daily newspaper of general circulation in the New York metropolitan area. Publication is to be made on 3 separate days within a 3-week period at a time designated by the Regional Director.

(d) Notify the Regional Director for Region 2, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

⁷ In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."